



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,277	11/20/2001	Frederic Lagace	CLW 2 0098-1-2	1192

7590 11/15/2004

Timothy E. Nauman
FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP
1100 Superior Avenue, 7th Floor
Cleveland, OH 44114-2518

EXAMINER

DUONG, THO V

ART UNIT PAPER NUMBER

3743

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/989,277	Applicant(s) LAGACE ET AL.	
	Examiner Tho v Duong	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-52 is/are pending in the application.
- 4a) Of the above claim(s) 37,51 and 52 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40-50 is/are allowed.
- 6) ☒ Claim(s) 35-36 and 38-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 37 and 50-52 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/13/2004. The examiner takes notice a typographical error of "claims 25-50" as claims read on the elected species of figure 25, the actual claims read on the elected species of figure 25 is 35-50.

Claims 35-52 are pending. Claims 37 and 50-52 have been withdrawn.

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Canada on 10/24/1994. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the abstract contain the phrase "the present invention relates to" which can be implied. . Correction is required. See MPEP § 608.01(b).

Drawings

The drawings are objected to because it appears in Figure 26 that the reference numbers "151" and "152" do not appear to indicate the "opening" and "the tube member" respectively as

Art Unit: 3743

described in the specification, page 64. It is suggested to switch these two numbers in the drawing to accurately indicate the tube member and opening. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 35-36 and 38-39 are rejected under 35 U.S.C. 102(b) as being anticipated by C. G. Munters et al. (US 3,125,157). Munters discloses (figures 1,2, A and column 2, line 39 –

Art Unit: 3743

column 4, line 50) the ventilation apparatus and the method for exchanging air between the interior and exterior of a building.

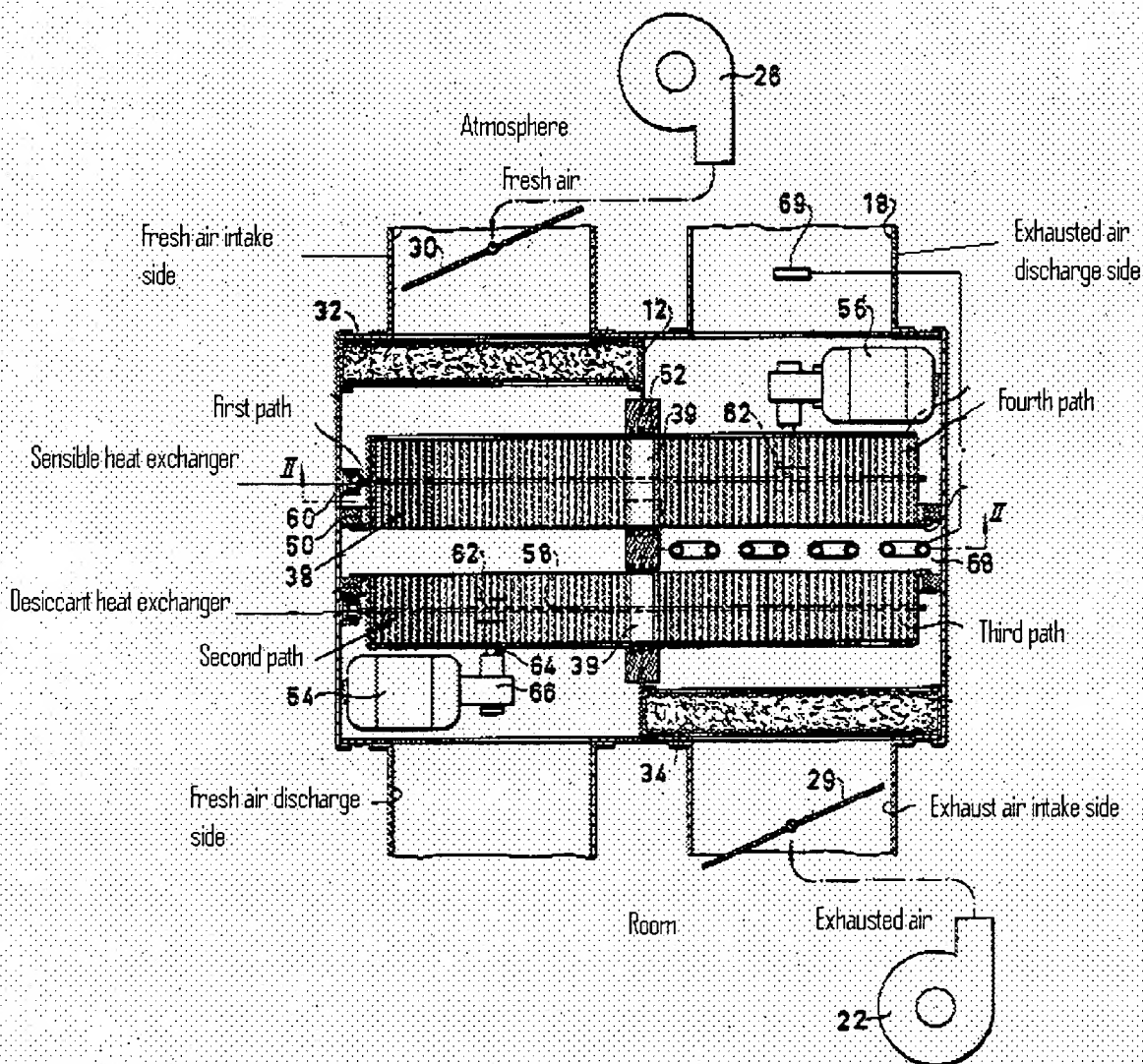


Figure A: The modified figure corresponds to figure 1 with limitations shown.

Allowable Subject Matter

Claims 40-50 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cohen et al. (US 4,729,774) discloses two rotary L and S wheels apparatus.

Macriss et al. (US 3,844,737) discloses a desiccant system for an open cycle air-conditioning system

Coellner (US 5,148,374) discloses a desiccant space conditioning control system.

Becker (US 4,874,042) discloses a corrugated cardboard heat exchanger.

Hajicek (US 4,497,361) discloses a regenerative heat and humidity exchanging apparatus.

Besik (US 4,952,283) discloses an apparatus for ventilation recovery of heat dehumidification and cooling of air.

Mitani et al. (US 4,426,853) discloses an air conditioning system.

Morissette et al. (US 5,193,610) discloses a defrostable ventilation system.

Shigeru et al. (JP 353006951A) discloses a heat recovery device.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Tho Duong whose telephone number is (703) 305-0768. The examiner can normally be reached on from 9:30-6 PM.

Art Unit: 3743

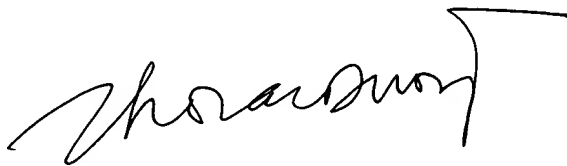
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennet, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

A handwritten signature consisting of the letters 'T' and 'D' in a stylized, cursive font.

TD

November 10, 2004

A handwritten signature in cursive script, appearing to read 'Tho Duong', with a long horizontal line extending from the end.

Tho Duong

Patent Examiner.